

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

ANTONIO J. BEASLEY,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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**No.: 3:19-CV-00361
REEVES/GUYTON**

MEMORANDUM OPINION

Plaintiff, a federal prisoner confined in the United States Penitentiary in Coleman, Florida, has filed a complaint for violation of his civil rights pursuant to 42 U.S.C. § 1983 against the United States of America based on his allegation that a Court in this District improperly sentenced him as a career offender based on a presentence report that wrongly listed a charge for which Plaintiff was never convicted as a conviction [Doc. 1]. For the reasons set forth below, Plaintiff's motion for leave to proceed *in forma pauperis* [Doc. 4] will be **DENIED** and this action will be **DISMISSED without prejudice** to Plaintiff prepaying the filing fee.

Section 1915(g) of the Prison Litigation Reform Act of 1996 ("PLRA") provides as follows:

In no event shall a prisoner bring a civil action [*in forma pauperis*] . . . if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury."

28 U.S.C. § 1915(g).

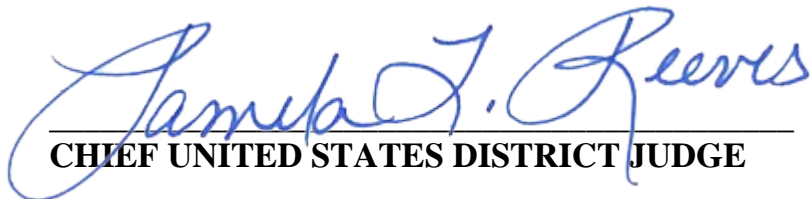
Prior to filing his complaint in this case, Plaintiff had filed more than three civil rights actions while he was incarcerated that a district court dismissed for failure to state a claim. *See Beasley v. Poole, et al.*, No. 1:11-CV-063 (E.D. Tenn. July 11, 2011) (complaint dismissed for failure to state a claim); *Beasley v. Gooden*, 1:17-CV-1451 (N.D. Ga. Aug. 17, 2017) (complaint dismissed for failure to state a claim); *Beasley v. Tolliver*, 1:17-CV-1510 (N.D. Ga. Aug. 17, 2017) (complaint dismissed for failure to state a claim); *Beasley v. Newbold*, 1:17-CV-1511 (N.D. Ga. Aug. 17, 2017) (complaint dismissed for failure to state a claim).

Nothing in Plaintiff's complaint [Doc. 1] suggests that Plaintiff was in imminent danger of serious physical injury at the time he filed this lawsuit. Accordingly:

- (1) Plaintiff must prepay the entire \$400.00 filing fee to proceed in this action;
- (2) Plaintiff's motion for leave to proceed *in forma pauperis* [Doc. 4] will be **DENIED**;
- (3) This action will be **DISMISSED without prejudice** to Plaintiff prepaying the filing fee pursuant to the three-strike rule of 28 U.S.C. § 1915(g); and
- (4) The Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous.

AN APPROPRIATE ORDER WILL ENTER.

ENTER :


CHIEF UNITED STATES DISTRICT JUDGE